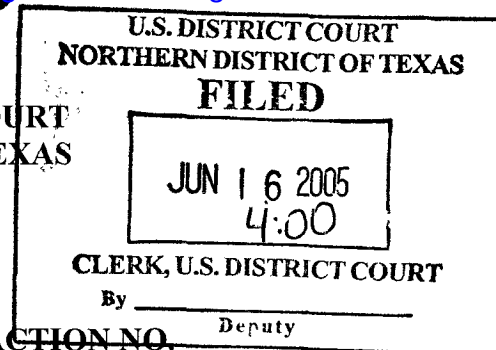


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



GARY THIBODEAU

VS.

HOME DEPOT, INC.

§
§
§
§
§
§

CIVIL ACTION NO. _____

4-05 CV-385-Y

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS:

Defendant **HOME DEPOT U.S.A., INC. D/B/A HOME DEPOT, INC.** files this Notice
of Removal. As grounds for removal, Defendant states as follows:

1. **GARY THIBODEAU** (hereinafter referred to as "Plaintiff") is the Plaintiff in this civil
action, originally filed on April 14, 2005, in the 67th Judicial District Court for Tarrant County,
Texas, entitled "*Gary Thibodeau vs. Home Depot, Inc.*," Cause No. 067-210987-05. *Attached
hereto and marked as Exhibit "A"* is an index of all documents filed in the 67th Judicial District
Court for Tarrant County, Texas, which clearly identifies each document and indicates the date the
document was filed in state court as required by 28 U.S.C. §1446(a) and Local Rule 81.1. Included
with the index is a copy of each document filed in the 67th Judicial District Court for Tarrant
County, Texas, except discovery material, individually tabbed and arranged in chronological order
according to the state court file date. *Attached and marked as Exhibit "B"* is a certified copy of the
District Court Docket Sheet as required by Local Rule 81.1.

2. Plaintiff's First Amended Petition seeks damages of \$250,000, which grants federal jurisdiction for this claim. *Please see p. 4 of the Plaintiff's First Amended Petition, which is attached and marked as Exhibit "C."* The Plaintiff's First Amended Petition was served on Defendant on May 18, 2005. This notice of removal is filed within thirty (30) days of service of Plaintiff's First Amended Petition and is timely filed under 28 U.S.C. §1446(b).

3. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties in that Plaintiff is now, and was at the time the action was commenced, diverse in citizenship from Defendant. Defendant is a corporation that was incorporated under the laws of the State of Delaware, having its principal offices and places of business now, and at the time this action was commenced, in Atlanta, Georgia.

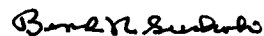
4. Removal of this action is proper under 28 U.S.C. §1441 since it is a civil action brought in state court and the federal district courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. §1332 because Plaintiff and Defendant are diverse in citizenship.

DEMAND FOR TRIAL BY JURY

5. Pursuant to FED. R. CIV. P. 38(b) and 81(c), Defendant hereby demands that this case be tried by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant **HOME DEPOT U.S.A., INC. D/B/A HOME DEPOT, INC.**, pursuant to federal law and in conformity with the requirements set forth in 28 U.S.C. §1446, removes this action for trial by jury from the 67th Judicial District Court for Tarrant County, Texas, to this Court on the 16th day of June, 2005.

Respectfully submitted,



Bernard R. Suchocki (Attorney-in-Charge)
State Bar No. 19458500
SUCHOCKI, BULLARD & CUMMINGS, P.C.
One Summit Avenue, Suite 312
Fort Worth, Texas 76102
(817) 338-0088
(817) 338-0086 (fax)

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned attorney for Home Depot U.S.A., Inc. d/b/a Home Depot, Inc. certifies that, on June 16, 2005, a copy of the Notice of Removal in this action was filed with the 67th Judicial District Court, Tarrant County, Texas, and that written notice of the filing of the Notice of Removal was mailed, via certified mail, to the party named above as Plaintiff in this action, by and through his attorney of record. Removal of this action is effective as of June 16, 2005 pursuant to 28 U.S.C. §1446.

DATE: June 16, 2005



Bernard R. Suchocki

EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

GARY THIBODEAU

VS.

HOME DEPOT, INC.

§
§
§
§
§
§

CIVIL ACTION NO.

INDEX OF DOCUMENTS FILED IN STATE COURT

- | | | |
|----|---|----------------|
| 1. | Plaintiff's Original Petition | April 14, 2005 |
| 2. | Home Depot, U.S.A., Inc., Defendant's Original Answer | April 22, 2005 |
| 3. | Home Depot U.S.A., Inc., Defendant's Filing of Agreement Pursuant to TEX. R. CIV. P. 11 <i>[regarding Special Exceptions]</i> . | May 10, 2005 |
| 4. | Plaintiff's First Amended Petition | May 18, 2005 |
| 5. | Docket Sheet | Undated |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been served on each attorney of record, via regular mail, pursuant to FED. R. CIV. P. 5.

DATED: June 16, 2005

Bernard R. Suchocki
Bernard R. Suchocki

NUMBER 1

3. On or about December 2, 2004, Plaintiff Gary Thibodeau was shopping during normal business hours at Home Depot located at 3950 Jim Wright Freeway, Lake Worth, Texas 76135. The Defendant Home Depot, Inc. extended an open invitation to the public, including Gary Thibodeau, to enter Home Depot's premises. Gary Thibodeau is therefore considered a business invitee.

4. As Gary Thibodeau completed shopping at Home Depot, he rolled the materials he purchased through a large open door that is on rollers and to his truck. He then turned and began walking back to the premises going through the same open door that he came from.

5. A Home Depot cashier was resting on her elbows and staring at Gary Thibodeau as he was walking back into the premises when suddenly the door rolled down and hit Gary Thibodeau in the head with such force that it cut his forehead.

6. Gary Thibodeau received no warning from the Home Depot cashier, or anyone else, that the door was falling.

7. Gary Thibodeau thereafter sought and received medical attention.

8. Gary Thibodeau has incurred pain and suffering and medical expenses and other damages as a direct and proximate result of the above-described incident.

III.

Causes of Action.

Premises Liability / Negligence.

9. Plaintiff incorporates by reference as if set forth verbatim herein Paragraphs 1 - 8 above.

10. The Incident and the resulting injuries and damages to Gary Thibodeau were directly and proximately caused by the negligence of the Defendant Home Depot (acting by and through their employees, agents, servants, representatives, and/or officials,) in Home Depot's failure to exercise ordinary care in maintaining the premises in a reasonably safe condition, its failure to protect and safeguard invitees such as the Plaintiff Gary Thibodeau from unreasonably unsafe and dangerous conditions, its failure to exercise reasonable care to reduce or eliminate the risk to invitees such as the Plaintiff Gary Thibodeau of the unreasonably unsafe and dangerous conditions, and/or its failure to warn invitees such as the Plaintiff Gary Thibodeau of the unreasonably unsafe and dangerous conditions at the time of the Incident.

11. Each of the above described acts and/or omissions by the Defendants singularly, or in combination with others, constituted negligence and directly and proximately caused the Incident and the injuries and damages to Plaintiff.

12. At all times relevant to this lawsuit, the Defendants knew or in the exercise of ordinary and reasonable care should have known of the dangerous condition and of the foreseeable harm that its negligent acts and/or omissions posed to invitees such as Gary Thibodeau.

13. The negligence described herein should be imputed to Home Depot's because the negligence alleged herein occurred as a result of the acts

and/or omissions of the Defendant's employees, agents, servants, representatives, and/or officers) and with Defendants knowledge and/or consent.

IV.

Prayer

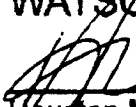
WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer, and that on final trial they be awarded:

- a) their actual damages sustained as a direct and proximate result of Defendants' conduct as set forth above;
- b) costs of suit;
- c) pre- and post-judgment interest; and
- d) Such other and further general and special relief to which plaintiffs may be justly entitled.

PLAINTIFF DEMANDS A JURY TRIAL

Respectfully submitted,

WATSON & ACOSTA P.L.L.C.



Houston M. Watson II
State Bar No. 20939500
Fort Worth Texas 76102
Telephone (817) 870-9121
Telecopy (817) 870-9132

ATTORNEYS FOR PLAINTIFF

NUMBER 2

CAUSE NO. 067-210987-05

GARY THIBODEAU	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	OF TARRANT COUNTY, TEXAS
	§	
HOME DEPOT, INC.,	§	
	§	
Defendant.	§	67TH JUDICIAL DISTRICT

HOME DEPOT, U.S.A., INC.,
DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant **HOME DEPOT, U.S.A., INC.** (incorrectly named as "Home Depot, Inc.") and files this Original Answer and would respectfully show the Court as follows:

I.

Pursuant to TEX. R. CIV. P. 92, Defendant hereby enters this general denial and demands strict proof of each and every allegation in Plaintiff's Original Petition by a preponderance of the credible evidence as required by the laws and constitution of the State of Texas.

II.

For further answer, Defendant would show that at the time and occasion in question, the Plaintiff failed to use ordinary care, that is, failed to do that which a person of ordinary prudence would have done under the same or similar circumstances or did that which a person of ordinary prudence would not have done under the same or similar circumstances and such was negligence and a proximate cause of the Plaintiff's alleged damages.

WHEREFORE, PREMISES CONSIDERED, **HOME DEPOT, U.S.A., INC.**, Defendant respectfully requests that Plaintiff **GARY THIBODEAU** take nothing by his cause of action and

DEFENDANTS' ORIGINAL ANSWER
Thibodeau\OrgAns

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that Defendant go hence without day with its costs and for such other relief, both in law and equity, to which it may show itself justly entitled.

Respectfully submitted,

SUCHOCKI, BULLARD & CUMMINGS, P.C.
One Summit Avenue, Suite 312
Fort Worth, Texas 76102
(817) 338-0088
(817) 338-0408 Fax

By: Bernard R. Suchocki
Bernard R. Suchocki
State Bar No. 19458500

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been mailed to each attorney of record, pursuant to TEX. R. CIV. P. 21 and 21a.

DATED: April 22, 2005

Bernard R. Suchocki
Bernard R. Suchocki

NUMBER 3

CAUSE NO. 067-210987-05

GARY THIBODEAU

Plaintiff,

v.

HOME DEPOT, INC.,

Defendant.

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

OF TARRANT COUNTY, TEXAS

67TH JUDICIAL DISTRICT

**HOME DEPOT U.S.A., INC., DEFENDANT'S
FILING OF AGREEMENT PURSUANT TO TEX.R.CIV.P. 11**

COMES NOW. HOME DEPOT U.S.A., INC., Defendant in the above-styled and numbered cause and files the following agreement attached hereto as Exhibit "A," in accordance with the Texas Rules of Civil Procedure.

Respectfully submitted.

SUCHOCKI, BULLARD & CUMMINGS, P.C.
One Summit Avenue, Suite 312
Fort Worth, Texas 76102
817) 338-0088
817) 338-0086 (fax)

By Bernard R. Suchocki

Bernard R. Suchocki
State Bar No. 19458500

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been mailed to each attorney of record, pursuant to Texas Rules of Civil Procedure 21 and 21a.

DATED: May 10, 2005

Bernard R. Suchocki
Bernard R. Suchocki

EXHIBIT “A”

SUCHOCKI, BULLARD & CUMMINGS, P.C.
ATTORNEYS AND COUNSELORS AT LAW
ONE SUMMIT AVENUE, SUITE 312
FORT WORTH, TEXAS 76102
TELEPHONE (817) 338-0088
TELECOMER (817) 338-0088

A. CUMMINGS

EMAIL cummings@triallegal.com

April 26, 2005

VIA FAX ONLY

Mr. Houston M. Watson, II
WATSON & ACOSTA P.L.L.C.
320 Purcell Street
Fort Worth, Texas 76102

Re: Gary Thibodeau vs. Home Depot, Inc.; Cause No. 067-210987-05

Dear Mr. Watson:

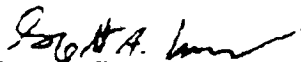
As you know, this firm has filed an answer on behalf of Home Depot U.S.A., Inc. in the above-referenced cause. A review of your petition indicates that you have failed to plead a maximum amount in controversy.

Attached please find a draft of Special Exceptions to your Original Petition. Rather than filing these Special Exceptions and requesting a hearing with the Court, I propose that we enter into a Rule 11 Agreement that you will amend your petition within fifteen (15) days to plead a maximum amount pursuant to Rule 47 of the Texas Rules of Civil Procedure. If you will agree to do this, please sign in the space provided below and fax this letter back to my office. If I have not heard from you within seven (7) days from the date of this letter, I will assume that no agreement can be reached and I will file the appropriate Special Exceptions with the Court and request a hearing.

I appreciate your attention in this regard.

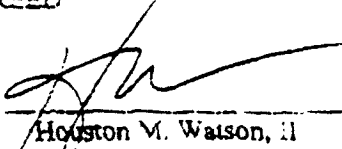
Very truly yours,

SUCHOCKI, BULLARD & CUMMINGS, P.C.


Scott A. Cummings

SAC:sh
Attachment

AGREED

By: 
Houston M. Watson, II
Attorney for Plaintiff

NUMBER 4

NO. 067-210987-05

Gary Thibodeau	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
vs.	§	TARRANT COUNTY, TEXAS
	§	
Home Depot, Inc.,	§	67th JUDICIAL DISTRICT
	§	
Defendant.	§	<u>JURY TRIAL REQUESTED</u>

PLAINTIFF'S FIRST AMENDED PETITION

Gary Thibodeau, Plaintiff, complaining of Defendant, Home Depot, Inc. designates this case as a Level 2 case, and for cause of action would show the Court as follows:

I.

Parties and Venue.

- 1.a. Plaintiff is a resident of Tarrant County, Texas.
- 1.b. Defendant Home Depot, Inc. is a Delaware corporation, authorized to do business in Texas and has appeared in this case.
2. Venue is proper in this County because all or a substantial part of the events upon which Plaintiff's claims are based occurred in Tarrant County.

II.

Factual Background.

3. On or about December 2, 2004, Plaintiff Gary Thibodeau was shopping during normal business hours at Home Depot located at 3950 Jim

Wright Freeway, Lake Worth, Texas 76135. The Defendant Home Depot, Inc. extended an open invitation to the public, including Gary Thibodeau, to enter Home Depot's premises. Gary Thibodeau is therefore considered a business invitee.

4. As Gary Thibodeau completed shopping at Home Depot, he rolled the materials he purchased through a large open door that is on rollers and to his truck. He then turned and began walking back to the premises going through the same open door that he came from.

5. A Home Depot cashier was resting on her elbows and staring at Gary Thibodeau as he was walking back into the premises when suddenly the door rolled down and hit Gary Thibodeau in the head with such force that it cut his forehead.

6. Gary Thibodeau received no warning from the Home Depot cashier, or anyone else, that the door was falling.

7. Gary Thibodeau thereafter sought and received medical attention.

8. Gary Thibodeau has incurred severe pain and suffering and medical expenses and other damages as a direct and proximate result of the above-described incident.

III.

Causes of Action.

Premises Liability / Negligence.

9. Plaintiff incorporates by reference as if set forth verbatim herein Paragraphs 1 - 8 above.

10. The Incident and the resulting injuries and damages to Gary Thibodeau were directly and proximately caused by the negligence of the Defendant Home Depot (acting by and through their employees, agents, servants, representatives, and/or officials,) in Home Depot's failure to exercise ordinary care in maintaining the premises in a reasonably safe condition, its failure to protect and safeguard invitees such as the Plaintiff Gary Thibodeau from unreasonably unsafe and dangerous conditions, its failure to exercise reasonable care to reduce or eliminate the risk to invitees such as the Plaintiff Gary Thibodeau of the unreasonably unsafe and dangerous conditions, and/or its failure to warn invitees such as the Plaintiff Gary Thibodeau of the unreasonably unsafe and dangerous conditions at the time of the Incident.

11. Each of the above described acts and/or omissions by the Defendants singularly, or in combination with others, constituted negligence and directly and proximately caused the Incident and the injuries and damages to Plaintiff.

12. At all times relevant to this lawsuit, the Defendants knew or in the exercise of ordinary and reasonable care should have known of the dangerous condition and of the foreseeable harm that its negligent acts and/or omissions posed to invitees such as Gary Thibodeau.

13. The negligence described herein should be imputed to Home Depot's because the negligence alleged herein occurred as a result of the acts and/or omissions of the Defendant's employees, agents, servants, representatives, and/or officers) and with Defendants knowledge and/or consent.

IV.

Prayer


WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer, and that on final trial they be awarded:

- a) his actual damages sustained as a direct and proximate result of Defendant's conduct as set forth above and in an amount of not less than \$250,000.00;
- b) costs of suit;
- c) pre- and post-judgment interest; and
- d) Such other and further general and special relief to which plaintiff may be justly entitled.

PLAINTIFF DEMANDS A JURY TRIAL

Respectfully submitted,

WATSON & ACOSTA P.L.L.C.



Houston M. Watson II
State Bar No. 20939500
Fort Worth Texas 76102
Telephone (817) 870-9121
Telecopy (817) 870-9132

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on May 18, 2005 a true and correct copy of Plaintiff's First Amended Petition was served by facsimile on Defendant's counsel Bernard Suchocki at 817 338-0082.



HOUSTON M. WATSON II

NUMBER 5

Civil Docket

Discovery: 2

067-210987-05

Cause of Action: PERSONAL INJURY (NO MTR VEH INVOLVED)

NAMES OF PARTIES

Date Filed
04/14/2005

GARY TRIBODEAU

ATTORNEYS

WATSON, HODGSON W.
320 PURCEY ST

VS.

FORT WORTH, TX 76102
BARID: 20939500TX Ph (817) 870-9121 PLTF
WATSON & ACOGSA

HOME DEPOT, INC.

BERNARD R. SUCHOCKI 210987
SUCHOCKI BULLARD & CUMMINGS PC
ONE SUMMIT AVE STE 312
FORT WORTH TX 76102
TEL. 817-338-0088 FAX 817-338-0408

Date of Orders

ORDERS OF COURT

Was Steno Used?

067-210987-05

EXHIBIT “B”

Civil Docket

Discovery: 2

067-210987-05

Cause Of Action: PERSONAL INJURY (NO MTR VEH INVOLVED)

NAMES OF PARTIES

ATTORNEYS

Date Filed 04/14/2005	GARY THIBODEAU	WATSON, HOUSTON M. 320 PURCEY ST
Jury Fee \$	vs.	FORT WORTH, TX 76102 BarID: 20939500TX Ph (817)870-9121 PLTF WATSON & ACOSTA
Paid By	HOME DEPOT, INC.	BERNARD R. SUCHOCKI 210987 SUCHOCKI BULLARD & CUMMINGS PC ONE SUMMIT AVE STE 312 FORT WORTH TX 76102 TEL. 817-338-0088 FAX 817-338-0408

Was Steno Used?

ORDERS OF COURT

Date of Orders

EXHIBIT “C”

NO. 067-210987-05

Gary Thibodeau	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
vs.	§	TARRANT COUNTY, TEXAS
	§	
Home Depot, Inc.,	§	67th JUDICIAL DISTRICT
	§	
Defendant.	§	<u>JURY TRIAL REQUESTED</u>

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Gary Thibodeau, Plaintiff, complaining of Defendant, Home Depot, Inc. designates this case as a Level 2 case, and for cause of action would show the Court as follows:

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8. Gary Thibodeau has incurred severe pain and suffering and medical expenses and other damages as a direct and proximate result of the above-described incident.

III.

Causes of Action.

Premises Liability / Negligence.

9. Plaintiff incorporates by reference as if set forth verbatim herein Paragraphs 1 - 8 above.

10. The Incident and the resulting injuries and damages to Gary Thibodeau were directly and proximately caused by the negligence of the Defendant Home Depot (acting by and through their employees, agents, servants, representatives, and/or officials,) in Home Depot's failure to exercise ordinary care in maintaining the premises in a reasonably safe condition, its failure to protect and safeguard invitees such as the Plaintiff Gary Thibodeau from unreasonably unsafe and dangerous conditions, its failure to exercise reasonable care to reduce or eliminate the risk to invitees such as the Plaintiff Gary Thibodeau of the unreasonably unsafe and dangerous conditions, and/or its failure to warn invitees such as the Plaintiff Gary Thibodeau of the unreasonably unsafe and dangerous conditions at the time of the Incident.

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12. At all times relevant to this lawsuit, the Defendants knew or in the exercise of ordinary and reasonable care should have known of the dangerous condition and of the foreseeable harm that its negligent acts and/or omissions posed to invitees such as Gary Thibodeau.

13. The negligence described herein should be imputed to Home Depot's because the negligence alleged herein occurred as a result of the acts and/or omissions of the Defendant's employees, agents, servants, representatives, and/or officers) and with Defendants knowledge and/or consent.

IV.

Prayer

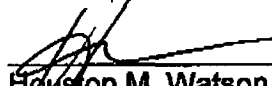
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- b) costs of suit;
- c) pre- and post-judgment interest; and
- d) Such other and further general and special relief to which plaintiff may be justly entitled.

PLAINTIFF DEMANDS A JURY TRIAL

Respectfully submitted,

WATSON & ACOSTA P.L.L.C.


Houston M. Watson II
State Bar No. 20939500
Fort Worth Texas 76102
Telephone (817) 870-9121
Telecopy (817) 870-9132

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on May 18, 2005 a true and correct copy of Plaintiff's First Amended Petition was served by facsimile on Defendant's counsel Bernard Suchocki at 817 338-0087.


HOUSTON M. WATSON II

ORIGINAL

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Gary Thibodeau 102 Ann Court Fort Worth, Texas 76108 (b) County of Residence of First Listed Plaintiff <u>Tarrant</u> (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number) Bernard R. Suchocki; Suchocki, Bullard & Cummings, P.C. One Summit Ave., Suite 312; Ft. Worth, TX 76102; (817) 338-0088	DEFENDANTS 4-05 CV - 385 - Y Home Depot U.S.A., Inc. 2455 Paces Ferry Road, N.W. Atlanta, GA 30339-4024 County of Residence of First Listed Defendant <u>Cobb</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED Attorneys (If known) Houston M. Watson, II; Watson & Acosta P.L.L.C. 320 Purcey St., Ft. Worth, TX 76102 (817) 870-9121
---	--

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 57 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7604	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable Sat. TV <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 520 General <input type="checkbox"/> 525 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)						
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity).

VI. CAUSE OF ACTION	Brief description of cause	28 U.S.C. § 1441
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ in excess of \$75,000	*CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	None.	(See instructions)	JUDGE	DOCKET NUMBER
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DATE

June 16, 2005

SIGNATURE OF ATTORNEY OF RECORD

Bernard R. Suchocki

FOR OFFICE USE ONLY

RECEIPT

53032

AMOUNT

250.00

APPLYING IFP

JUDGE

MAG JUDGE

ORIGINAL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

4-05 CV - 385 - Y

JUN 16 2005

SUPPLEMENTAL CIVIL COVER SHEET FOR
CASES REMOVED FROM STATE COURT

This form must be attached to the Civil Cover Sheet at the time the case is filed in the U.S. District Clerk's Office. Additional sheets may be used as necessary.

1. **Style of the Case:**

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code.)

Party and Party Type**Attorney(s)**

Plaintiff - Gary Thibodeau

Houston M. Watson, II
State Bar No. 20939500
WATSON & ACOSTA P.L.L.C.
320 Purcey Street
Fort Worth, Texas 76102
(817) 870-9121

Defendant - Home Depot, U.S.A., Inc.
d/b/a Home Depot, Inc.

Bernard R. Suchocki
State Bar No. 19458500
SUCHOCKI, BULLARD &
CUMMINGS, P.C.
One Summit Avenue, Suite 312
Fort Worth, Texas 76102
(817) 338-0088

2. **Jury Demand:**

Was a Jury Demand made in State Court? X Yes No

If "Yes," by which party and on what date?

Gary Thibodeau
Plaintiffs

May 18, 2005
Date

3. **Answer:**

Was an Answer made in State Court? X Yes No

If "Yes," by which party and on what date?

Home Depot U.S.A., Inc. d/b/a Home Depot, Inc.
Party

April 22, 2005
Date

4. Unserved Parties:

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason(s) for No Service</u>
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None.

5. Nonsuited, Dismissed or Terminated Parties:

Please indicate any changes from the style on the State Court papers and the reason for that change:

<u>Party</u>	<u>Reason</u>
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None.

6. Claims of the Parties:

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claim(s)</u>
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Gary Thibodeau	Personal injury claims arising when an overhead rollup door allegedly came down and hit Plaintiff on the head.
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